

THE CORPORATION OF THE MUNICIPALITY OF HASTINGS HIGHLANDS

BY-LAW NUMBER 2011-012

**Being a By-Law to establish procedures for the closure and sale
of shore road allowance land**

WHEREAS the Municipal Act, R.S.O. 2001, c. 25, section 270 (1) provides that every Municipality which has the authority to sell land shall pass a by-law establishing procedures including the giving of notice to the public governing the sale of land;

AND WHEREAS the Municipality of Hastings Highlands deems it advisable to pass By-Law 2011-012 being a by-law pertaining to the sale of shoreline road allowances;

NOW THEREFORE The Municipality of Hastings Highlands enacts as follows:

1. That the Municipality establishes the procedures set out in Schedule "A, B & C attached hereto as the procedures governing the closure and sale of shoreline road allowances.
2. That the Mayor and the CAO/Clerk of the Municipality be and they are hereby authorized and instructed on behalf of the Municipality to enter into and execute under its corporate seal and to deliver whatever documents as necessary to effect the closing and sale of shore road allowances in accordance with the said procedures.
3. That this By-Law shall take effect upon the third and final reading thereof.
4. That all former by-laws pertaining to this matter, in particular By-Law 34-2005 are hereby repealed on the effective date of this By-Law.

READ A FIRST TIME THIS 23RD DAY OF FEBRUARY, 2011.

READ A SECOND TIME THIS 20TH DAY OF APRIL, 2011.

READ A THIRD TIME THIS 11TH DAY OF MAY, 2011

Ronald J. Emond-Mayor

I. Craig Davidson-CAO Clerk-Treasurer

SCHEDULE "A" TO BY-LAW 2011-012

PROCEDURES FOR THE CLOSURE AND SALE OF SHORELINE ROAD ALLOWANCE

WHEREAS the municipality of Hastings Highlands deems it advisable to alleviate hardship for landowners, who desire or need to acquire legal title to the waterfront abutting their lands;

AND WHEREAS the Municipality deems it expedient to offer the municipal lakeshore road allowance for sale to abutting owners, where applicable.

THEREFORE the Municipality has agreed to set a fee of \$3.00 per linear foot for the purchase of a portion of municipal lakeshore road allowance that may exist in front of their properties.

The following additional costs and procedures to expedite the sale are itemized below:

1. A Shoreline road allowance or part thereof will only be closed upon an application by the abutting land owner(s).
2. The shoreline road allowance and any part of other road allowances abutting on water will only be closed above the high water mark. Flooded land will not be sold.
3. Payment of the sum of \$600.00 as a non-refundable deposit will be submitted with the application to purchase, \$200.00 of which shall be allocated to administration costs and \$400.00 shall be allocated to a deposit for advertising and legal costs.
4. If a building or buildings are located on a shoreline road allowance or other road allowance, Council may, in its discretion, close and sell only a portion of the road allowance (i.e. a three metre (3 m.) envelope around the main building only).
5. The Applicant(s) shall pay all costs of the closure and sale pertaining to the application and processing of same, including, but not limited to administrative, advertising, legal fees and disbursements, survey and HST on all of the foregoing, prior to the delivery of the Transfer/Deed of Land for the transfer to the Applicant(s).
6. The Applicant(s) shall complete the "Application for Closure and Sale of a Road Allowance" for the Municipality of Hastings Highlands, a copy of which is attached hereto as Schedule "B". The application must be signed by all of the registered owners of the abutting lands. If one or more of the registered owners does not sign the Application, the Applicant(s) must attach his, her or their written authorizations allowing someone else to sign the application on his or her or their behalf.
7. A sketch indicating with reasonable accuracy, the lot lines and dimensions, shall accompany the application. If a Reference Plan is available it shall be used. The Applicant(s) shall outline on the sketch or plan the area of shoreline for which the application is being made.
8. The written Consents of the property owners on either side of the Applicant's property are required (Consent Form is attached as Schedule "C") and the signatures of the consenting property owners must also be endorsed on a copy of the sketch approving the extension of boundary lines from the corner survey post of the Applicant's property to the high water mark. The Municipality will not enter into any negotiations or arbitrate in any manner while obtaining such consent. .
9. The Applicant(s) shall clearly mark on the ground the boundary lines as agreed to with their neighbours on either side of his or her property and shall plant a picket at least two feet (2') high marked with red paint or with a survey ribbon beside the corner post of the Applicant's property nearest the water and another marking the inner limit of the shore road and as indicated on the plan. This will clearly mark the extension of the boundary lines that have been agreed to and will enable the surveyor to prepare an accurate survey plan.
10. The Municipality of Hastings Highlands will not become involved in any boundary line disputes with abutting owner, however, should a dispute arise
 - a. The Municipality will consider proposed conveyances after parties have completed mediation through County of Hastings Planning Department, a Notary Public or an Ontario Land Surveyor;
 - b. During deliberations, mediators and landowners shall have regard to the policies contained herein;

- c. Upon receiving written notice of successful mediation from each landowner, Council may consider closure and sale within the agreed boundary lines.
11. Notwithstanding number 10 above, should the mediation be unsuccessful, the Municipality may
 - a. close and sell as to the shortest line from the property stake the portion of the road allowance applied for by the Applicant(s) without the written consent or approval of either one or both of the Applicant's neighbours as to the shortest line to the shore road allowance; or, in rare circumstances
 - b. the municipality may at its sole discretion close and sell to the Applicant(s) a portion of the lake shore road allowance abutting the applicant's land if deemed advisable in the interest of good planning. All costs of the transaction(s) will be assigned and apportioned to each property, and payable to the municipality upon request from the landowner to acquire the Transfer/Deed of to the land abutting his/her property(s).
12. A field inspection of the abutting property and road allowance will be conducted if deemed necessary by the Planning Committee or Council.
13. The Application shall be reviewed by the Planning Committee to determine any obvious obstacles affecting the normal procedure of sale. Following a recommendation to Council, a resolution may be passed by Council giving the applicant(s) Notice of Tentative Approval to proceed with the completion of the sale within a time limit of two (2) years. If warranted, a request for extension may be considered. Otherwise, the Application will be deemed expired after two (2) years, and any previous deposits received from the applicant will be non-refundable.
14. Road allowances leading to water shall not be closed unless an alternate, suitable and sufficient access, with the same or better water frontage is provided elsewhere.
15. Applicant(s) who have received tentative approval shall pay an additional deposit of \$600.00 toward legal and advertising costs. Such payment will be deemed as authorization to proceed.
16. The Applicant(s) will provide the Municipality with a copy of the Transfer/Deed of Land to their property abutting the shore road allowance.
17. The Applicant(s) shall provide the Municipality with a signed Acknowledgment confirming that the Applicant(s) will pay all legal and advertising costs to close and transfer the shore road allowance.
18. The Applicant(s) will arrange to obtain a Reference Plan of the shoreline road allowance prepared by an Ontario Land Surveyor. Prior to depositing the Plan at the Registry Office, the Applicant(s) shall obtain the written approval of the abutting land owners as to the location of the sidelines, such approval to be indicated by the signature of the abutting owners endorsed on a true copy of the Preliminary Reference Plan, and a copy of the Preliminary Reference Plan approved by the abutting owners shall be delivered to the Municipality.
19. Prior to depositing the Plan at the Registry Office, the Preliminary Reference Plan shall be presented to Council for approval.
20. After approval of the Preliminary Reference Plan the Applicant shall provide the Municipality with seven (7) copies of the registered Reference Plan and the Municipality shall have the Municipal Solicitor complete the process of the closure and conveyance of the road allowance to the Applicant after full payment of costs.

SCHEDULE "B"

THE CORPORATION OF MUNICIPALITY OF HASTINGS HIGHLANDS

APPLICATION FOR CLOSURE OF A SHORELINE ROAD ALLOWANCE

1. Name of Property Owner(s): _____

2. Civic Address of Subject Property: _____

3. Mailing Address of Applicant(s): _____

4. Telephone Number (____) _____
5. Fax Number (____) _____
6. Legal/Property Description Lot No. _____ Concession No. _____
Plan No. _____ Frontage: _____
Depth: _____ Acreage: _____
Geographic Township: _____
Lake/River _____
7. Items required to accompany Application:
Sketch/Plan of Property (attached) Yes _____ No _____
8. Is there any access to the property other than the shoreline road allowance?
Yes _____ No _____
9. Is the shoreline road allowance serving as access to other properties?
Yes _____ No _____
10. Do the adjoining property owners consent to this Application?
Yes _____ No _____
11. Are the Consent Forms Attached: Yes _____ No _____
12. Have the abutting owners signed the plan showing established boundaries?
Yes _____ No _____

DATE OF APPLICATION: _____

SIGNATURE(S) OF APPLICANT(S): _____

SCHEDULE 'C'

CONSENT TO SALE OF SHORELINE ROAD ALLOWANCE

IN THE MATTER OF THE Application for closure of Shoreline Road Allowance made by:

for that portion of the 66 foot shoreline road allowance located on:

Part Lot _____ Concession _____ or Registered Plan _____

Designated as Part(s) _____ on Reference Plan _____

Geographic Township of _____, now the Municipality of Hastings Highlands along the shore

Of _____ River/Lake, abutting the Applicant's property.

I/We the undersigned, being the owner(s) of the adjacent property, consent to the closure and sale of the described shoreline road allowance as indicated on the attached plan/sketch.

I/We have no objection to the tentative boundary of the shoreline road allowance as outlined.

I/We understand that the final boundaries will be determined by an Ontario Land Surveyor and may vary slightly from the indicated on the attached plan/sketch and that a preliminary (draft) copy of the Reference Plan of Survey will be provided for review for verification.

Dated this _____ day of _____ 20 _____.

SIGNATURE(s) _____

